

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

CRP.No. 98 of 2007()

OPELE.61/1996 of DISTRICT COURT, PALAKKAD
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REVN. PETITIONER: RESPONDENT.

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM, REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENT: PETITIONER.

POULOSE, S/O.THUNDATHIL VEETIL ABRAHAM,
RESIDING AT POTHAPPARA, VADAKKUMCHERRY AMSOM,
DESOM, ALATHUR THALUK.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P
SRI.M.N.SAJEER

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

M.N.Krishnan, J.

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C.R.P.Nos.98 of 2007

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Dated this the 6th day of December, 2007.

ORDER

C.R.P.No.98 of 2007 is filed against the award of the Additional District Judge, Mavelikara in O.P.(Ele.) No.61 of 1996. As per the said decision, the court has awarded a compensation of Rs.19,905/-. It is against that decision, the Power Grid Corporation has come up in revision.

2. Learned counsel for the revision petitioner would submit before me that the court has fixed the rate of return at 5% in the light of the decision of this Court reported in **Kumba Amma v. K.S.E.B.** - 2000(1) K.L.T. 542. In a batch of cases, which went up to the Apex Court, the matter has been remitted back in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1 and a fresh consideration is ordered. The Apex Court held that each case has to be decided on the facts and circumstances of that case. The Apex Court held as follows:

"The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar

relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

In the light of the above decision, the matter requires further consideration for which additional evidence may be necessary.

3. Therefore, the award under challenge is set aside and the matter is remitted back to the court below for fresh consideration and disposal after affording equal opportunities to both sides to adduce both documentary and oral evidence in support of their respective contentions. Parties are directed to appear before the court below on 18.1.2008.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.